# Call to Order:

The meeting was called to order at 7:33 p.m. Present were Chair Joan Duff, members Vincent Chiozzi (arrived at 7:39 p.m.), Jay Doherty, Eric Macaux, Lelani Foster and associate member Zach Bergeron; also present were Paul Materazzo, Director Planning and Jacki Byerley, Planner.

### 15 Salem Street – Phillips Academy Wellness Center:

Ms. Duff opened the continued public meeting for the Site Plan Review Dover Use for a 68,900 sf building located at 15 Salem Street to be used by Phillips Academy as a Wellness Center.

Ms. Byerley informed the Board that the meeting was kept open to allow the applicant to revise their plans with the corrected utility information requested by the DPW, and for the Board's request for more information on the fee waiver for Dover uses. Ms. Byerley stated that she had researched prior Site Plan Review Dover uses and the fees have always been waived when requested. She suggested that the in the future the Board look into a reduction of the fee instead of a waiver of the fee.

Ms. Duff asked John Galanis, representing Phillips Academy if he had anything to add. Mr. Galanis stated that they have complied with the DPW requirements and made changes per their comments. Ms. Byerley confirmed that the revised utility plans are satisfactory and the plans are now to scale which were the only open comments.

Ms. Byerley recommended that the Board close the meeting tonight and she stated that she could have a recommendation for the Board for the next meeting. Mr. Macaux asked if anything could come up between now and the next meeting which would be a reason to not close the meeting tonight. Ms. Byerley stated that she has all necessary information and all other items will be reviewed when the applicant files for a building permit.

On a motion by Mr. Macaux seconded by Ms. Foster the Board moved to grant the applicant's request to waive the processing fee. **Vote:** Unanimous (5-0).

On a motion by Ms. Foster seconded by Mr. Doherty the Board moved to close the public meeting for the Site Plan Review Dover use for Phillips Academy. **Vote:** Unanimous (5-0).

### **Courtney Lane HOA Amendment:**

Ms. Byerley informed the Board that Courtney Lane is a private way off of Old County Road for which the Board had previously granted waivers reducing the pavement to 18 ft wide and allowing the turnaround in an easement. A condition of the waivers was that the private way must have an HOA for maintenance. The owner of 19 County Road would like to be eliminated from the HOA because they do not intend to use Courtney Lane. They are aware that if the amendment is granted, they would have no right to use Courtney Lane, and if they chose to in the future, an amendment would need to be approved by the Board and recorded.

This amendment also corrects some minor items in the original HOA documents. The maintenance section was changed to follow the Town's language more closely, and the amendment states that both trash removal and recycling will take place on County Road.

# **Courtney Lane HOA Amendment (cont'd):**

Ms. Foster asked if No. 4 of the HOA documents was standard language and Ms. Byerley answered that it was. Mr. Doherty asked how many houses were in the subdivision and Ms. Byerley answered that it consists of two new homes and two existing homes. She stated that Courtney Lane looks like a driveway as it is only 18 ft wide. She added that 19 County Road is not a corner lot, there is another home between it and Courtney Lane, but 19 is an L-shaped lot with access to Courtney Lane by their back yard.

On a motion by Ms. Foster seconded by Mr. Bergeron the Board moved to approve the First Amendment to Declaration and By-Laws of Courtney Lane Homeowners' Association with the addition of "recycling" to be added after both instances of "trash" in paragraph 6. **Vote:** Unanimous (6-0).

### **Murray Hill Estates Performance Guarantee Extension:**

Ms. Byerley informed the Board that Murray Hill Estates is a subdivision that still is not going out to construction. The roadway is to binder coat but no lots have been constructed. The developer would like to extend his performance guarantee for one year. Extending the performance guarantee would prevent the Board from being able to immediately take the bond from the developer, but she does not anticipate a reason why the Board would need to take the bond when there are no houses.

On a motion by Ms. Foster seconded by Mr. Bergeron the Board moved the performance guarantee for Murray Hill Estates subdivision be extended to January 31, 2015. **Vote:** Unanimous (6-0).

#### 29 Boutwell Road:

Ms. Duff opened the continued public hearings for a Definitive Subdivision and Special Permit for Earth Movement for a 4-lot subdivision located at 29 Boutwell Road.

Ms. Byerley informed the Board that there were two open items which the applicant has now satisfied. These items were the construction detail of the water main at the end of the roadway to Knollcrest and the side underdrains requested by the Town Engineer. The benchmark elevations need to match the Town's system, but the closest benchmark is over 1,000 ft away, so a compromise has been reached between the Town Engineer and the applicant. The stormwater management review has been completed by Horsley and Witten Group, and DPW, the Fire Department and the Planning Division are satisfied with the revised plans. Ms. Byerley recommended that the Board close the hearings and start deliberations.

Mr. Doherty asked if the owners of 16 Knollcrest are aware that the water main will be looped through their property. Ms. Byerley stated that the Town owns the easement and approval was needed from the Board of Selectmen for the applicant to file for the Notice of Intent. The owners of 16 Knollcrest were notified that work would be taking place within the Town's easement. Mr. Doherty then asked if a bond would be required and Ms. Byerley stated that a bond is always required, but it is not needed until they start constructing the lots.

### 29 Boutwell Road (cont'd):

John Boardman of Hancock Associates representing the applicant asked if the water line to Knollcrest needed to be constructed before clearance certificates are issued. Ms. Byerley answered that the Town always requires all utilities be in place before construction begins on the individual lots. Mr. Boardman then asked if just the roadway water line could be constructed before the issuance of clearance certificates, and then the through waterline before the issuance of occupancy permits. Ms. Byerley answered that DPW would not allow construction until all utilities are final.

On a motion by Ms. Foster, seconded by Mr. Doherty, the Board moved to close the public hearings for a Definitive Subdivision and Special Permit for Earth Movement. **Vote:** Unanimous (6-0).

### **29 Boutwell Road Deliberations:**

Ms. Byerley informed the Board that they have a draft of forty conditions along with a waiver for the sidewalk to now consider. The conditions regarding the compromise on the elevations are condition No. 5 and No. 32. Mr. Macaux asked if these conditions were developed in coordination with the Town Engineer. Ms. Byerley answered that they were because based on how the standard is written; the closest benchmark is over 1,000 ft away.

Mr. Chiozzi asked when the value of the sidewalk is known. Ms. Byerley answered that it is determined at a later date. The Town Engineer bases the value of the sidewalk on the cost for the developer to construct it, not the prevailing wages that the Town would use for construction.

On a motion by Ms. Foster seconded by Mr. Doherty the Board moved to find that the subdivision as a whole makes the best feasible design of existing topography and complies with the requirements and findings of Section 6.3 of the Andover Zoning Bylaw, is in conformance with the Subdivision Control Law, the Rules and Regulations Governing the Subdivision of Land in the Town of Andover, and the recommendations of the Board of Health. **Vote:** Unanimous (6-0).

On a motion by Ms. Foster seconded by Mr. Bergeron the Board moved to grant the waiver to construct a sidewalk as requested and to approve with conditions the application for a Definitive Subdivision Plan and the Special Permit for Earth Movement at 29 Boutwell Road to be known as Fraser Drive subject to the conditions as drafted. **Vote:** Unanimous (6-0).

#### 200 Andover Street:

Ms. Duff opened the public meeting on 200 Andover Street, Master Shin's, a Site Plan Review.

Mark Yanovitz representing the applicant stated the project is for an addition to a historic building in Ballardvale. The applicant has already received approval from the Ballardvale Historic Commission and the Zoning Board of Appeals. The ZBA approval was a modification to an approval from a year and a half ago. The modification was for the addition to be a different shape. The project is a tall one-story addition with a 17ft ceiling that will be used as a karate studio with a two story entry piece that overlaps the existing building. The site plan shows 20 parking spaces which complies with commercial office use. The Inspector of Buildings has

# 200 Andover Street (cont'd):

determined that the more appropriate use is indoor commercial recreation, which requires 16 parking spaces. DPW is concerned about snow storage and stormwater runoff. The parking lot will be extended with pervious pavement which can handle the runoff, and two drywells will be added to handle the downspouts of the addition allowing stormwater to stay onsite. This should lead to a reduction of stormwater of close to 8%.

Ms. Byerley asked Mr. Yanovitz to explain the landscaping in the front where pavement will be taken away and the fencing on the sides. Mr. Yanovitz stated that they will be adding five arborvitae bushes to the south east of the building to satisfy an abutter's concerns. The fence around the electrical transformer will be changed to a u-shape and they will clean up the western part of the property line creating landscaping buffers around the west and north perimeters. An abutting neighbors' vinyl fence which is 2.5 ft off the property line will be removed, and an existing brick fence will remain as the property barrier. They will loam and seed that neighbors' property which will extend their yard. Ms. Foster asked if the fence around the transformer will be removed. Mr. Yanovitz stated that a section will be removed to create two parking spaces and it will become a u-shaped fence.

Mr. Macaux asked if there will be any changes in the traffic flow or volume. Mr. Yanovitz stated that any changes would be fairly minimal. Dongkwon Shin, the applicant stated that in his observations that day there is an average of about 10 or 12 cars for a 1 hour class of 40 children. There are never more than 60 children at his studio at one time. Mr. Doherty stated that it can be a little tricky getting out of there at 3:00 p.m. or 3:30 p.m. Mr. Bergeron asked if the space is currently vacant. Mr. Yanovitz answered that it is vacant and that it used to be commercial office and conference area. He added that there was probably a similar amount of people coming and going but it would have been at more 5 p.m. or 6 p.m.

Ms. Byerley stated that an IDR was not held because the applicant had already gone through the variance process. The DPW commented that they would like to see the grading, the stormwater management and the snow storage on the plans, which the applicant has provided today for DPW review. Ms. Foster asked if indoor recreation use fell under personal service and Ms. Byerley stated that it does not.

Mike Bergeron of 18 Dale Street, Building 10, Unit 10B stated that at the ZBA meeting before the holidays, abutters were concerned about the impact of the addition on their properties in regards to sight line, lighting and available ambient light and the density of the development between the Ballardvale Crossing condominiums and this property. He wanted to know how these concerns were addressed. Mr. Yanovitz stated that at the follow up ZBA hearing, Kelly Higgins, a Board member from the condominiums was present and spoke in support of the project. He added that the application before the ZBA was a modification to a prior approval for the addition to be built as tall as the existing structure. Master Shin voluntarily lowered the height of the structure by 8 ft to respect the concerns of the abutters regarding natural light, massing and scale of the building which is a compromise on the future value of his investment.

# 200 Andover Street (cont'd):

On a motion by Mr. Macaux seconded by Ms. Foster the Board moved to continue the public meeting for the addition to 200 Andover Street to Tuesday, January 28<sup>th</sup> at 7:30 p.m. **Vote:** Unanimous (6-0).

### 165 Haverhill Street – Merrimack Valley YMCA:

Ms. Duff opened the continued public hearing on the Merrimack Valley YMCA at 165 Haverhill Street for a Special Permit for Major Non-Residential Project.

Ms. Byerley informed the Board that most of the items have been addressed by the applicant regarding the stormwater, traffic and the abutting property and landscaping. The hearing was held open for the sewer connection to the Haverhill Street line. Based on some infill and infiltration that the applicant can remedy on their site, the sewer commissioner has agreed to sign off on the connection.

Rick Feldman of Feldman Development Partners, representing the applicant reviewed the changes that came from the public hearing and department feedback. The plans now show a dedicated right and left turn lane at the exit with proper stop signs. The landscaping plans show buffering trees between the YMCA and adjacent condominiums. The YMCA will clean up the infiltration on their site. Ms. Foster asked if they would be posting one-way signage at their entrance and exit that could be visible from the street and Mr. Feldman stated that they could.

Mr. Doherty asked if they had worked anything out with the abutting condominium regarding drainage. Mr. Feldman stated that Andover Terrace is now comfortable with the changes to the plans and the YMCA is also going to fix a walkway between their property and an abutting condominium complex. Ms. Byerley asked if there was a break in the retaining wall between the two properties and Mr. Feldman stated that there was.

Ms. Byerley stated that Morris Gray, the water and sewer superintendent has written a memo dated December 13, 2013 with his recommendations and the YMCA will work to make the recommended corrections.

On a motion by Ms. Foster seconded by Mr. Bergeron the Board moved to close the public hearing for a Major Non-Residential Project Special Permit for the YMCA 165 Haverhill Street. **Vote:** Unanimous (6-0).

### 165 Haverhill Street - Merrimack Valley YMCA - Deliberations:

Ms. Byerley informed the board that she is recommending 22 conditions be placed on this special permit. She pointed out that condition No. 20 refers to the memo from the superintendant of water and sewer, which are items to be addressed before an occupancy permit is issued. There is a condition that the applicant will submit annual reports as stated in the Operation and Maintenance and Long Term Pollution Prevention Plan. The applicant will provide the Town with digital copies of the as-built plans so that the location of utilities can be incorporated into the Town's system.

### 165 Haverhill Street - Merrimack Valley YMCA - Deliberations (cont'd):

On a motion by Ms. Foster seconded by Mr. Bergeron the Board moved to find that the YMCA's expansion to the existing building at 165 Haverhill Street complies with the requirements and criteria of Sections 9.4 and 9.5 of the Andover Zoning Bylaw and the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and town and is in harmony with the general purpose and intent of the Zoning Bylaw. Further the Board conditionally approves the special permit submitted by the Merrimack Valley YMCA for the expansion of the existing building with associated site work. **Vote:** Unanimous (6-0).

# **Medical Marijuana:**

Ms. Duff opened the public discussion of the Medical Marijuana Overlay District Warrant Article. Mr. Materazzo stated that he wanted to use this opportunity to talk about this sensitive topic at a public forum. It has been discussed multiple times with the Planning Board and has been discussed with the Board of Selectmen. He informed the Board that besides the school nurse who came to the last Planning Board meeting, he has not received any communication from residents against it. He has received calls from people looking to do something in Town, but not opposition to date. The working group has finalized the draft language and the four locations. The Selectmen have suggested a joint public meeting with the Planning Board before the warrant is signed, to make any necessary changes. Mr. Materazzo stated that the draft bylaw is based off of a model that the Attorney General has approved and Town Counsel has reviewed the draft as to form.

Mr. Doherty asked if there was a subcommittee. Mr. Materazzo stated that Ms. Duff the Planning Chair and the Selectmen Chair were invited to attend all of the working group meetings.

Mr. Materazzo stated that the locations include part of the the ID2 off of River Road, from the Chateau to the River, including Phillips Medical. It also includes a portion off of River Road where the Massard Building is, which has been underutilized for years. Mr. Chiozzi asked if they were allowed to limit it to a portion of a district. Mr. Materazzo stated that they could because it was an overlay, not a zoning change. Mr. Bergeron asked why the entire ID2 zone off of River Road was not included. Mr. Materazzo answered that it was because they wanted to keep a good distance from technical school and a day care center. Mr. Chiozzi asked if they were expecting less than four locations to go to Town Meeting. Mr. Materazzo stated that the four locations will go forward at the suggestion of the working group unless the Planning Board or the Board of Selectmen chooses to not send all of them. Ms. Duff added that the Selectmen have already seen these four locations.

Mr. Doherty asked if they would grow onsite and Mr. Materazzo stated that some do. Ms. Foster noted that those that qualify for an agricultural exemption do not need to obtain the special permit and would only need to go through the site plan review process. She asked who would qualify for an agricultural exemption. Mr. Materazzo answered anyone designated locally and by the State. Mr. Bergeron asked if any farm in Andover who would meet that designation and Mr. Materazzo answered that there were several that would qualify. Ms. Duff added that they cannot grow in greenhouses; they have to have a secure facility, so any agriculturally exempt site

# Medical Marijuana (cont'd):

would have to build a building on their land. Mr. Materazzo also added that they would still have to go through the MassDPH process to obtain their permit to grow.

Ms. Foster asked what other communities were successful in passing zoning language for this use. Mr. Materazzo stated that he thought Norwell and Dartmouth were two of the communities but would get that information to her. He stated that many communities chose to go forward with a moratorium last year.

**Adjournment:** The meeting was adjourned at 8:49 p.m.